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UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION

CODE OF FAIR COMPETITION SERIES—CODE No. 6

CODE OF FAIR COMPETITION
FOR THE
ALCOHOLIC BEVERAGE WHOLESALE
INDUSTRY

Approved by the President of the United States
December 9, 1933

1. Executive Order
2. Letter of Transmittal (Secretary of Agriculture)
3. Code



UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1933

EXECUTIVE ORDER

Whereas, the Secretary of Agriculture having submitted for my approval a Code of Fair Competition for the Alcoholic Beverage Wholesale Industry and having rendered his report and recommendations and findings thereon;

Now, therefore, I, FRANKLIN D. ROOSEVELT, President of the United States, pursuant to the authority vested in me by title I of the National Industrial Recovery Act, approved June 16, 1933, and otherwise, do hereby find that:

1. Due notice and opportunity for hearings to interested parties have been given pursuant to the provisions of the act and regulations thereunder, upon a code of fair competition presented by the Secretary of Agriculture upon his own motion pursuant to section 3 (d) of the act, and Executive orders under the act; and,

2. Hearings have been held upon said Code, pursuant to such notice and pursuant to the pertinent provisions of the act and regulations thereunder; and,

3. Said Code of Fair Competition constitutes a code of fair competition, as contemplated by the act and complies in all respects with the pertinent provisions of the act, including clause (2) of subsection (a) of section 3 of title I of the act; and,

4. It appears, after due consideration, that said code of fair competition will tend to effectuate the policy of Congress as declared in section 1 of title I of the act,

Now, therefore, I, FRANKLIN D. ROOSEVELT, President of the United States, pursuant to the authority vested in my by Title I of the National Industrial Recovery Act, approved June 16, 1933, and otherwise, do hereby approve said Code of Fair Competition for the Alcoholic Beverage Wholesale Industry.


Franklin D. Roosevelt
President of the United States.

THE WHITE HOUSE,
December 9, 1933.

LETTER OF TRANSMITTAL

AGRICULTURAL ADJUSTMENT ADMINISTRATION,
December 8, 1933.

THE PRESIDENT,
The White House.

DEAR MR. PRESIDENT: I have the honor to submit the following:

1. There is transmitted herewith a Code of Fair Competition for the Alcoholic Beverage Wholesale Industry, which I recommend for your approval. The Code, because of the emergency requiring its immediate consideration by you, does not contain labor provisions, other than the mandatory labor provisions of Section 7 (a) of the National Industrial Recovery Act. Additional labor provisions covering hours of labor, rates of pay, and other conditions of employment, not yet finally completed for your consideration, will be submitted later by the National Recovery Administrator. There accompanies the Code the report of the Administrator of the Agricultural Adjustment Act and a true, correct, and complete stenographic report of all the evidence introduced at a public hearing on said Code, held pursuant to Section 3 (d), Title I, of the National Industrial Recovery Act.

2. By virtue of Executive Order No. 6182, of June 26, 1933, as supplemented by Executive Order No. 6207, of July 21, 1933, and Executive Order No. 6345, of October 20, 1933, which, pursuant to Title I of the National Industrial Recovery Act of June 16, 1933 (Public No. 67, 73rd Congress) delegated to me, as Secretary of Agriculture, certain of the powers vested in the President of the United States by the aforesaid Act, and after considering the aforesaid Code of Fair Competition and a true, correct, and complete stenographic report of all the evidence introduced at such public hearing, and being fully advised in the premises, I make the following findings:

(1) That the Code was presented by the Secretary of Agriculture upon his own motion pursuant to Section 3 (d) of the Act and Executive Orders under the Act. The Code Authority provided for in the Code will be established pursuant to a plan approved by the Federal Alcohol Control Administration and the approved plan will, in conformity with the Act, provide that the Code Authority shall be truly representative of the Industry.

(2) That the Alcoholic Beverage Wholesale Industry, covered by such Code, is included within the trades, industries, or subdivisions thereof enumerated in Executive Order No. 6182 of June 26, 1933, as supplemented by Executive Order No. 6207 of July 21, 1933, and Executive Order No. 6345 of October 20, 1933.

(3) That the provisions of the Code establishing standards of fair competition (a) are regulations of interstate and foreign commerce and (b) are reasonable.

(4) That the Code is not designed to promote monopolies or to eliminate or oppress small enterprises and will not operate to discriminate against them and will not permit monopolies or monopolistic practices.

(5) That the Code will not prevent an individual from pursuing the vocation of manual labor and selling or trading the products thereof nor prevent anyone from marketing or trading the produce of his farm.

(6) That due notice and opportunity for hearing, in connection with the aforesaid Code, has been afforded interested parties, in accordance with Title I of the National Industrial Recovery Act and applicable regulations issued thereunder.

(7) That said Code will tend to effectuate the declared policy of Title I of the National Industrial Recovery Act as set forth in Section 1 of said Act in that the terms and provisions of such Code tend: (a) to remove obstructions to the free flow of foreign commerce, which tend to diminish the amount thereof; (b) to provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among trade groups; (c) to eliminate unfair competitive practices; (d) to promote the fullest possible utilization of the present productive capacity of industries; (e) to avoid undue restriction of production (except as may be temporarily required); (f) to increase the consumption of industrial and agricultural products by increasing purchasing power; and (g) otherwise to rehabilitate industry.

(8) That said Code, when approved by the President, will constitute a Code of Fair Competition for the Alcoholic Beverage Wholesale Industry within the meaning of Section 3 (a) of Title I of the National Industrial Recovery Act.

Respectfully,

H. Wallace
Secretary of Agriculture.

CODE OF FAIR COMPETITION

FOR THE

ALCOHOLIC BEVERAGE WHOLESALE INDUSTRY

Exclusive of Provisions Relating to Hours of Labor, Rates of Pay, and Other Conditions of Employment

ARTICLE I—PURPOSES

Whereas, it is the declared policy of Congress as set forth in Section 1 of Title I of the National Industrial Recovery Act:

To remove obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof; and to provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among trade groups, to induce and maintain united action of labor and management under adequate governmental sanctions and supervision, to eliminate unfair competitive practices, to promote the fullest possible utilization of the present productive capacity of industries, to avoid undue restriction of production (except as may be temporarily required), to increase the consumption of industrial and agricultural products by increasing purchasing power, to reduce and relieve unemployment, to improve standards of labor, and otherwise to rehabilitate industry and to conserve natural resources.

And—

Whereas, Congress has not had opportunity to legislate on liquor control following the repeal of the Eighteenth Amendment, and

Whereas, the Twenty-first Amendment provides in parts as follows:

The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

And—

Whereas, it is in the best interests of the public that all industries engaged in the production or distribution of alcoholic beverages shall limit their activities to their reasonable and immediate requirements until such time as Congress may consider appropriate legislation relating to such industries,

Now, therefore, to effectuate the foregoing policies, the following provisions are prescribed and approved by the President as a Code of Fair Competition for the alcoholic beverage wholesale industry, and shall be the standards of fair competition for such industry and be binding upon every member of such industry in the United States; and neither the promulgation of this Code nor any action taken thereunder by the Federal Alcohol Control Administration, the Code Authority, or by any member of the alcoholic beverage wholesale industry shall be construed as giving any member of such industry a vested right to continue to participate in the distribution of alcoholic beverages in the United States.

ARTICLE II—DEFINITIONS

SECTION 1. As used in this Code—

(a) The term "President" means the President of the United States.

(b) The term "Act" means Title I of the National Industrial Recovery Act, approved June 16, 1933.

(c) The term "person" means individual, partnership, corporation, association, and any other business unit.

(d) The terms "alcoholic beverage wholesale industry" and "industry" mean the purchase and sale of any alcoholic beverage; except (1) purchase and sale at retail or for export, or (2) sale by distillers of beverages distilled by them; by rectifiers of beverages rectified by them; by brewers of beverages brewed by them, and by importers of beverages imported by them; and all alcoholic beverages acquired by such persons as a necessary adjunct to the proper performance of their functions as distillers, rectifiers, brewers, or importers, and (3) the purchase and sale of warehouse receipts by brokers who do not take physical possession of alcoholic beverages covered by such receipts, or (4) the purchase and sale of any alcoholic beverage by dispensaries and other agencies operated and maintained by any State or political subdivision thereof.

(e) The term "distilled spirits" means ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, brandy, gin, and other distilled spirits for beverage use, including all dilutions and mixtures thereof.

(f) The term "alcoholic beverages" means any liquor for beverage use containing more than one half of one percent of alcohol by volume.

(g) The term "products of the brewing industry" means beer, ale, porter, stout, and other fermented malt liquors or cereal beverages.

(h) The term "beverage use" means beverage, medicinal, culinary, or any other use, except use for industrial purposes.

(i) The term "fortified wine" means a natural wine to which has been added brandy or other distilled spirits.

(j) The term "employee" means any person engaged in the industry in any capacity receiving compensation for his services, irrespective of the nature or method of payment of such compensation.

(k) The term "employer" means any person by whom any such employee is compensated or employed.

(l) The term "member of the industry" means any person engaged in the industry as an employer or on his own behalf.

(m) The term "Administration" means the Federal Alcohol Control Administration.

(n) The term "Code Authority" means the industry authority which may be established pursuant to this Code.

(o) The term "director" means the director of the Federal Alcohol Control Administration.

(p) The term "United States" means the several States and Territories, the District of Columbia, and Puerto Rico.

(q) The term "State" includes Territory and the District of Columbia.

(r) The term "books and records" means any books, records, accounts, contracts, documents, memoranda, papers, correspondence, or other written data pertaining to the business of the person in question.

(s) The term "subsidiary" means any person, of or over whom, a member of the industry has either directly or indirectly, actual or legal control, whether by stock ownership or in any other manner.

(t) The term "affiliate" means any person who has, either directly or indirectly, actual or legal control of or over a member of the industry whether by stock ownership or in any other manner.

(u) The term "trade buyer" means any buyer of alcoholic beverage except an ultimate consumer buyer.

(v) The term "distributor" means any trade buyer except a trade buyer who distributes solely to consumers.

ARTICLE III—MANDATORY LABOR PROVISIONS

SECTION 1. Employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or other mutual aid or protection.

SEC. 2. No employee and no one seeking employment shall be required as a condition of employment to join any company union or refrain from joining, organizing, or assisting a labor organization of his own choosing.

SEC. 3. Employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment approved or prescribed by the President.

ARTICLE IV—PERMITS

SECTION 1. From and after such date as the Administration shall specify no person in the Alcoholic Beverage Wholesale Industry selling distilled spirits or fortified wines, shall engage in such Industry except pursuant to a permit issued by the Director. Any person desiring to engage in or who is engaged in the purchase and sale of distilled spirits or fortified wines in conformity with Federal, State, and local law shall be entitled to have such a permit issued to him upon application therefor. Where there is no existing State or local law expressly authorizing the conduct of the wholesaling of distilled spirits or fortified wines an applicant shall be entitled to receive a permit provided that in the judgment of the Administration the granting of such permit would not increase the facilities beyond that necessary for the adequate distribution of distilled spirits or fortified wines in such State.

SEC. 2. Any permit issued hereunder shall remain in effect during the duration of this Code unless suspended or revoked as hereinafter provided. Such permit shall be conditioned on the observance by the permittee of the provisions of this Code (other than the provisions of Article III) and regulations issued thereunder. Such permit shall not be taken or held to create in any permittee any vested

right as to any standard of profits or volume of business, or any right to engage in the distribution of any class of alcoholic beverages after the termination of the permit.

SEC. 3. Any such permit may, after due notice and opportunity for hearing, be suspended or revoked by the Director, with the approval of the Administration, for violation of any term or condition thereof.

SEC. 4. Nothing in this Article shall be construed to limit or modify any procedure or remedy which may be available for the enforcement of the provisions of this Code.

ARTICLE V—UNFAIR METHODS OF COMPETITION (EXCLUDING PRODUCTS OF THE BREWING INDUSTRY)

The following practices constitute unfair methods of competition and shall not be engaged in with respect to alcoholic beverages by any member of the industry. Such practices shall not apply to the distribution of the products of the brewing industry.

SECTION 1. *False Advertising*.—To publish or disseminate in any manner any false advertisement of any alcoholic beverage. An advertisement shall be deemed to be false if it is untrue in any particular, or if directly or by ambiguity, omission, or inference, it tends to create a misleading impression.

SEC. 2. *Misbranding*.—To sell or otherwise introduce into commerce any alcoholic beverages that are misbranded unless the member of the industry can establish a guaranty valid under section 9 of the Food and Drugs Act or under regulations prescribed by the Administration. Alcoholic beverages shall be deemed to be misbranded—

(a) *Food and Drugs Act Requirements*.—If they are misbranded within the meaning of the Food and Drugs Act.

(b) *Standards of Fill*.—If their container is so made, formed, or filled as to mislead the purchaser, or its contents fall below the standard of fill prescribed by regulations of the Administration.

(c) *Standards of Identity*.—If they purport to be or are represented as alcoholic beverages for which a definition of identity has been prescribed by regulations of the Administration and they fail to conform to the definition.

(d) *Standards of Quality*.—If they purport to be or are represented as alcoholic beverages for which standards of quality have been prescribed by regulations of the Administration, and (1) fail to state on the label, if so required by the regulations, their standard of quality in such terms as the regulations specify, or (2) fall below the standard stated on the label.

(e) *Label Requirements*.—If in package form and they fail to bear a label conforming to such requirements as the Administration may by regulation prescribe. Regulations for the purposes of this subsection shall be prescribed by the Administration but only after due notice and opportunity for hearing to the members of the industry.

SEC. 3. *Commercial Bribery*.—To give or permit to be given money or anything of substantial value for the purpose of influencing persons (a) to purchase alcoholic beverages of a particular brand or

from a particular person, or (b) to refrain from purchasing from or dealing with particular persons.

SEC. 4. *Shipment or Delivery on Consignment.*—To enter into any agreement (except for export) for the shipment or delivery of alcoholic beverages on consignment.

SEC. 5. *Allowances and Rebates for Advertising and Distribution Service.*—To pay a trade buyer for a special advertising or distributing service, (a) unless in pursuance of a written contract defining the service to be rendered and the payment therefor; and (b) unless such service is rendered and the payment is reasonable and not excessive in amount; and (c) unless such contract is separate and distinct from any sales price and is not designed or used to reduce a sales price; and (d) unless a copy of each such contract is filed with the Code Authority. This section shall not apply to any contract made prior to the effective date of this Code.

SEC. 6. *Guarantees Against Decline.*—To make or give to any purchaser of alcoholic beverages any guarantee or allowance in any form against or as a result of decline in the seller's price thereof; except pursuant to a contract made prior to the effective date of this Code.

SEC. 7. *Prizes and Premiums.*—To offer any prize, premium, gift, or other similar inducement to either a trade or consumer buyer.

SEC. 8. *Control of Retail Outlets.*—To hold any interest in any license for the sale of alcoholic beverages at retail for consumption on the premises; or, directly or indirectly, to participate or engage in the sale of alcoholic beverages at retail for consumption on the premises; or to control, employ, manage, or financially assist in any manner, any person engaging in the retail sale of alcoholic beverages for consumption on the premises; or to hold any interest in any premises on which alcoholic beverages are sold at retail for consumption on the premises, unless the holding of such interests is permitted under regulations of the Administration or a statement thereof has been filed with the Administration and has not been disapproved by it; provided that this section shall not be held to prohibit the granting of the credits ordinarily extended by the industry with respect to the sale of alcoholic beverages.

SEC. 9. *Sales to Unauthorized Vendors.*—To sell or otherwise dispose of alcoholic beverages to any person not authorized by license, in full force and effect, to sell, manufacture, or distribute alcoholic beverages, if such a license is required of such person by any State law or political subdivision thereof; or to sell or otherwise dispose of alcoholic beverages to any member of an industry covered by any code under the Act pertaining to alcoholic beverages, if such member is engaged in business without a permit in full force and effect under such code and such a permit is required by the Code, provided, however, that such sales (or other disposition) shall not be deemed a violation of the Section if such sale or disposition was made in good faith by the member of the industry.

SEC. 10. *Violations of State Law.*—To transport or import alcoholic beverages into any State or political subdivision thereof for delivery, sale, or use therein in violation of the law of such State.

SEC. 11. *Exclusive Outlets.*—To exact or require, by contract, understanding, or otherwise, that any trade buyer who is engaged

in the sale of alcoholic beverages at retail for consumption on the premises, handle or sell only the products of a particular member of the industry.

ARTICLE VI—UNFAIR METHODS OF COMPETITION (APPLICABLE TO PRODUCTS OF THE BREWING INDUSTRY)

The following practices constitute unfair methods of competition and shall not be engaged in by any distributor of products of the brewing industry:

SECTION 1. *False Advertising*.—To publish or disseminate in any manner any false advertisement of any product of the brewing industry. An advertisement shall be deemed to be false if it is untrue in any particular, or if directly or by ambiguity, omission, or inference, it tends to create a misleading impression.

SEC. 2. *Misbranding*.—To sell or otherwise introduce into commerce any product of the brewing industry that is misbranded. A product shall be deemed to be misbranded—

(a) *Food and Drugs Act Requirements*.—If it is misbranded within the meaning of the Food and Drugs Act.

(b) *Standards of Fill*.—If its container is so made, formed, or filled as to mislead the purchaser, or its contents fall below the standard of fill prescribed by regulations of the Administration.

(c) *Standards of Identity*.—If it purports to be or is represented as a product for which a definition of identity has been prescribed by regulations of the Administration and it fails to conform to the definition.

(d) *Standards of Quality*.—If it purports to be or is represented as a product for which standards of quality have been prescribed by regulations of the Administration, and (1) fails to state on the label, if so required by the regulations, its standard of quality in such terms as the regulations specify, or (2) falls below the standard stated on the label.

(e) *Label Requirements*.—If it fails to bear a label conforming to such requirements as the Administration may by regulation prescribe. Regulations for the purpose of this subsection shall be prescribed by the Administration, but only after due notice and opportunity for hearing to members of the industry.

SEC. 3. *Commercial Bribery*.—To give or permit to be given money or anything of substantial value in an effort to induce agents, employees, or representatives of customers or prospective customers to influence their employers or principals to purchase or contract to purchase products of the industry from the maker of such gift, or to influence such employers or principals to refrain from dealing or contracting to deal with competitors.

SEC. 4. *Consignment*.—The making of or entering into any agreement or contract the effect of which will amount to the shipment or delivery of products of the brewing industry on consignment. "Consignment," as used herein, means the delivery of products under an arrangement whereby the person receiving such products has the right at any time prior to sale to relinquish possession to

or return them to the shipper, and whereby the title to such products remains in the shipper.

SEC. 5. *Allowances and Rebates for Advertising and Distribution Service.*—To pay or make an allowance to a trade buyer for a special advertising or distribution service (a) unless in pursuance of a written contract defining the service to be rendered and the payment therefor; and (b) unless such service is rendered and the payment is reasonable and not excessive in amount; and (c) unless such contract is separate and distinct from any sales contract and such payment is separate and distinct from any sales price and is not designed or used to reduce a sales price; and (d) unless such payment is equally available for the same service to all competitive trade buyers in the same class in the same trade area; and (e) unless a copy of each such contract is filed with the Code Authority. This section shall not apply to any contract made prior to the effective date of this Code.

SEC. 6. *Control of Retail Outlets.*—

(a) *Retail Licenses.*—To hold the ownership, directly or indirectly, after the expiration of existing licenses, of any interest in any license to sell products of the brewing industry for consumption on the premises covered by such licenses.

(b) *Loans and Guarantees.*—To furnish, give, or lend any money or other thing of value, directly or indirectly, or through a subsidiary or affiliate or by any officer, director, or firm member of the industry, to any person engaged in selling products of the brewing industry for consumption on the premises where sold, or to any person for the use, benefit, or relief of said person engaged in selling as above; or to guarantee the repayment of any loan or the fulfillment of any financial obligation of any person engaged in selling as above. Nothing herein contained shall affect the extension of usual and ordinary commercial credits for the products of the industry sold and delivered.

(c) *Equipment and Fixtures.*—To furnish, give, rent, or sell any equipment, fixtures, or supplies, directly or indirectly, or through a subsidiary or affiliate, or by any officer, director, or firm member of the industry, to any person engaged in selling products of the brewing industry for consumption on the premises where sold. Nothing herein shall be construed as applying to such equipment, fixtures, or supplies furnished, loaned, or rented prior to the effective date of this Code or prohibit the sale by any member of the industry or any subsidiary or affiliate thereof, of such equipment, fixtures, or supplies now owned by them and now installed in retail premises. No loan, rental, or sale of any equipment, fixtures, or supplies made before the effective date of this Code shall be used as a consideration for an agreement thereafter made respecting the purchase of products of the industry.

(d) (1) *Signs.*—To furnish, give, lend, or rent any interior decoration other than signs, or to furnish, give, lend, or rent any sign or signs, for inside or outside use, costing collectively more than \$100 in any one calendar year by any member of the industry, directly or indirectly, or through a subsidiary or affiliate, or by any officer, director, or firm member of the industry, for use in or about or in connection with any one establishment on which products of

the brewing industry are sold for consumption on the premises were sold, provided that nothing herein shall affect existing sign or signs under uncancellable order costing not more than \$400 each, if within 40 days after the effective date of this Code, a list of such uncancellable orders, as have been placed by him, is filed by the member of the industry with the Code Authority.

(2) To pay money or other thing of value for the privilege of placing or painting a sign on the premises occupied by any one selling products of the brewing industry for consumption on the premises where sold. Nothing herein shall be construed as prohibiting the payment or rental for signs installed or painted under contract prior to the effective date of this Code.

(e) *Ownership of Real Estate.*—To hold any interest in any premises acquired after the effective date of this Code on which products of the brewing industry are sold at retail for consumption on the premises where sold unless the holding of such interest is permitted under regulations of the Administration, or a statement of the holding thereof has been filed with the Administration and has not been disapproved by it.

SEC. 7. *Guarantees Against Decline.*—To make or give to any trade buyer any guarantee or allowance in any form against or as a result of decline in the seller's price.

SEC. 8. *Exclusive Outlets.*—To exact or require, by contract, understanding, or otherwise, that any retail trade buyer handle or sell only the products of a particular member of the industry.

SEC. 9. *Prizes and Premiums.*—To offer any prize, premium, gift, or other similar inducement, except advertising novelties of nominal value, to either trade or consumer buyers.

SEC. 10. *Sales to Unauthorized Vendors.*—After notification by the Code Authority, to sell or otherwise dispose of products of the brewing industry to any person who has been declared by the Code Authority to be not authorized by license in full force and effect, to sell, manufacture or distribute such products, if such a license is required of such person by State law.

SEC. 11. *Violations of State Law.*—To transport or import products of the industry into any State or political subdivision thereof for delivery, sale, or use therein, in violation of the law of such State.

ARTICLE VII—BOTTLING

SECTION 1. Members of the industry shall sell or dispose of distilled spirits in bottles only, except in case of sales to rectifiers or blenders or to dispensaries or other agencies operated and maintained by any State or political subdivision thereof, or for export or for shipment in bond. Nothing in this section shall restrict the sale or other disposition of warehouse receipts covering distilled spirits in bond, provided such receipts require the bottling of the distilled spirits before or after tax payment and prior to shipment by the warehouseman.

ARTICLE VIII—PRICES AND TERMS OF SALE (EXCEPT FOR PRODUCTS OF THE BREWING INDUSTRY)

SECTION 1. Each member of the industry shall publish and, to the extent required by regulations of the Administration or of the Code Authority, keep posted with the Code Authority, in accordance with regulations prescribed by it and approved by the Administration, (a) all the brands and types of alcoholic beverages except products of the brewing industry offered for sale by such member, (b) the sale price thereof to various classes of trade buyers, and (c) all discounts and other terms of sale of such alcoholic beverages except products of the brewing industry.

The term "publish" as used herein means the making available of a price list of each member of the industry to this trade and consumer buyers.

SEC. 2. The Code Authority, if required by the Administration, shall file with it a copy of each price list so posted. The Code Authority may upon request make available such price lists to trade and consumer buyers.

SEC. 3. No sale or other disposition of alcoholic beverages except products of the brewing industry shall be made by any member of the industry except in accordance with its prices and terms so published, posted, and in effect.

SEC. 4. No member of the industry shall publish, post, or keep posted any price or term which (a) will constitute destructive price cutting, or (b) be so high as to encourage, directly or indirectly, the sale of alcoholic beverages except products of the brewing industry in violation of law, or (c) be oppressive to the consumer. A published or posted price or term shall not be held to be in violation of this section unless it is kept available or posted after it has been declared ineffective by the Code Authority or the Administration, as hereinafter in this Article provided.

SEC. 5. If, after investigation, the Code Authority finds that any price or term published or posted under this Article is not in conformity with the requirements of Section 4, it shall, with the approval of the Administration, declare such price or term ineffective.

SEC. 6. If the Administration is of the opinion that the prices or terms published or posted for any class or type of alcoholic beverages except products of the brewing industry are contrary to the requirements of Section 4, it may report such fact to the Code Authority. If the Code Authority does not within ten days take action acceptable to the Administration, the Administration may then declare such prices or terms ineffective, if it finds that they are not in conformity with the requirements of Section 4.

SEC. 7. The payment by any member of the industry of allowances or rebates, refunds, concessions, or discounts, whether in the form of money or otherwise, not conforming with the prices and terms as disclosed in the published or posted price list of sale, is prohibited.

SEC. 8. The posting or publishing of any false or fictitious price list, or the use of invoices which falsely indicate prices, discounts, or terms of any sale, or the inserting in any invoice of statements which make the invoice a false record, wholly or in part, of the

transaction represented on the face thereof, or the withholding from any invoice of statements which properly should be included therein, so that, in the absence of such statement, the invoice does not truly reflect the transaction involved, is prohibited.

ARTICLE IX—PRICES AND TERMS OF SALE (APPLICABLE TO PRODUCTS OF THE BREWING INDUSTRY)

SECTION 1. Each distributor of products of the brewing industry shall keep posted with the Code Authority, in accordance with regulations prescribed by the Code Authority and approved by the Administration, and upon request make available to trade and consumer buyers a price list which shall set forth (a) all the brands and types of products of the brewing industry offered for sale by such distributor, (b) the sale price thereof to various classes of trade buyers, and (c) all discounts and other terms of sale, other than usual periods of credit, of such trade products. No change in a posted price list shall be effective until 10 days after such change has been posted.

SEC. 2. The terms of sale so posted shall include provisions that no delivery of any hogsheads, barrels, kegs, or cases shall be made without collecting for the container, or (if the distributor of products of the brewing industry does not pass title thereto, without a deposit therefor) at the time collection is made of the price for the product of the industry sold. The amounts so collected or deposited shall not be less than such amounts as the Code Authority, with the approval of the Administration, shall prescribe.

SEC. 3. No sale or other disposition of products of the brewing industry shall be made by any distributor of products of the brewing industry except in accordance with its prices and terms so posted and in effect.

SEC. 4. (a) No distributor of products of the industry shall post or keep posted any price or term which (1) will constitute destructive price cutting or dumping, or (2) be so high as to encourage, directly or indirectly, the sale of trade products in violation of law, or (3) be oppressive to the consumer.

(b) A price or term posted by distributors shall constitute dumping if it permits the sale of a product of the brewing industry in any territory of sale outside the territory in which is located the principal place of business of the distributor at a price which is both (1) lower than the comparable price posted by any other distributor or by any member of the brewing industry in such outside territory for a product of similar quality; and (2) lower than the lowest comparable price for the same product posted by the distributor in the territory in which is located his principal place of business. In no event shall the price or term so posted be deemed to constitute dumping if such price or term is fair and reasonable in view of the prevailing conditions within the territory of sale, including the general level of prices for the product. For the purposes of this subsection the area covered by a territory, if territorial differentiations in price are made by the distributor, shall be specified in the price list posted by the distributor.

(c) A posted price or term shall not be held to be in violation of this section unless it is kept posted after it has been declared ineffective by the Code Authority or the Administration, as hereinafter in this Article provided.

SEC. 5. If, after investigation, the Code Authority finds that any price or term posted under this Article is not in conformity with the requirements of Section 4, it shall, with the approval of the Administration, declare such price or term ineffective.

SEC. 6. If the Administration is of the opinion that the prices or terms posted for any brand or type of products of the brewing industry are contrary to the requirements of Section 4, it may report such fact to the Code Authority. If the Code Authority does not within 10 days take action acceptable to the Administration, the Administration may then declare such prices or terms ineffective, if it finds that they are not in conformity with the requirements of Section 4.

SEC. 7. The making of any sale or delivery, except sale or deliveries to the home, without a written invoice is prohibited.

SEC. 8. The payment by any member of the industry of allowances or rebates, refunds, concessions, or discounts, whether in the form of money or otherwise, not conforming with the prices and terms of sale, as disclosed in the posted price list, is prohibited.

SEC. 9. The posting or publishing of any false or fictitious price list, or the use of invoices which falsely indicate prices, discounts, or terms of any sale, or the inserting in any invoice of statements which make the invoice a false record, wholly or in part, of the transactions represented on the face thereof, or the withholding from any invoice of statements which properly should be included therein so that, in the absence of such statements, the invoice does not truly reflect the transaction involved, is prohibited.

ARTICLE X—REPORTS

SECTION 1. The members of the industry shall severally, from time to time, upon the request of the Administration (or the National Recovery Administrator in case of information relating to hours of labor, rates of pay, or other conditions of employment) furnish such information on and in accordance with forms of reports to be supplied, as may be deemed necessary for the purposes of (a) assisting in the furtherance of the powers and duties of the Administration or the National Recovery Administrator with respect to this Code, or (b) enabling the Administration or the National Recovery Administrator to ascertain and determine the extent to which the declared policy of the Act and the purposes of this Code will be effectuated, such reports to be verified under oath.

SEC. 2. The members of the industry shall severally permit, for the same purposes or to enable the Administration or the National Recovery Administrator to verify the information furnished on said forms of reports, all their books and records and the books and records of their affiliates and subsidiaries, to be examined by the Administration or the National Recovery Administrator during the usual hours of business.

SEC. 3. Each member of the industry shall severally keep books and records which will clearly reflect all financial transactions of his business and the financial condition thereof and such other matters relating to the business of the member as the Administration may by regulation prescribe, and shall require that his subsidiaries and affiliates keep such records.

SEC. 4. All information furnished the Administration pursuant to this Article shall remain confidential in accordance with the applicable regulations prescribed by the Administration.

ARTICLE XI—CODE AUTHORITY

SECTION 1. There shall be a Code Authority selected by the members of the industry pursuant to a plan submitted by members of the industry and approved by the Administration. The members of the Code Authority shall be subject to the approval of the Administration and shall be subject to removal in the discretion of the Administration. The powers and duties of the Code Authority shall be as follows:

(a) To administer the provisions of this Code (except as otherwise provided) subject to the approval of the Administration and to foster and promote the observance of this Code by the members of the industry.

(b) To prescribe rules for the performance of its functions subject to the approval of the Administration.

(c) To recommend to the Administration amendments to this Code.

(d) To cooperate with and assist the Administration, as the Administration from time to time may request, in carrying out its functions under this Code.

(e) To make reports to the Administration from time to time on problems relating to the industry affecting the administration of this Code.

(f) To receive and investigate charges of apparent violation of this Code and to report to the Administration its findings of fact on such charges.

This paragraph shall not be construed to derogate from or limit the powers of the Administration to investigate apparent violations of this Code and to take such action in the premises as it deems desirable.

SEC. 2. There shall be a Committee of the Code Authority known as the Brewing Products Distributors' Committee. It shall be composed of members of the industry who are engaged in the distribution of products of the brewing industry selected in accordance to a plan approved by the Federal Alcoholic Control Administration. This Committee shall have delegated to it by the Code Authority, in accordance with a plan approved by the Federal Alcoholic Control Administration, those duties and powers necessary for it to administer the provisions of Articles VI and IX.

SEC. 3. If the members of the industry fail to submit a plan under Section 1 and 2 within thirty days after the effective date of this Code or the plan submitted is not approved by the Administration,

then the Administration may establish and provide for the selection of the members of the Code Authority according to a plan prescribed by the Administration.

ARTICLE XII—FEDERAL ALCOHOL CONTROL ADMINISTRATION

SECTION 1. The Administration shall prescribe such regulations as may be provided for in this Code or as may be reasonably necessary to carry out the provisions of this Code which it is authorized to administer, and may make such interpretations of such provisions and regulations as it deems necessary. Such regulations and interpretations shall have the same force and effect as the provisions of this Code.

SEC. 2. If the Administration is of the opinion that the Code Authority has failed to take any action which the Administration deems necessary to administer the provisions of this Code, the Administration may so report to the Code Authority. If the Code Authority does not within such time as the Administration deems proper, take action relating to such report which the Administration deems adequate, the Administration shall take such action as it may deem necessary to administer such provisions.

SEC. 3. The Administration may investigate any apparent violations of the provisions of this Code and may take such action in the premises as it deems necessary.

ARTICLE XIII—DURATION OF IMMUNITIES

SECTION 1. The benefits, privileges, and immunities conferred by this Code shall cease upon its termination except with respect to acts done prior thereto.

ARTICLE XIV—AGENTS

SECTION 1. The Administration and the National Recovery Administrator may by designation in writing name any person, including any officer or employee of the Government, to act as agent in connection with their respective powers and duties under this Code.

ARTICLE XV—MODIFICATION

SECTION 1. This Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provision of Section 10 (b) of the Act, from time to time, to cancel or modify any order, approval, license, rule, or regulation issued under the Act, and specifically, but without limitation, to the right of the President to cancel or modify his approval of the Code or any conditions imposed by him upon his approval thereof.

ARTICLE XVI—APPLICATION OF CODE TO OTHER INDUSTRIES

SECTION 1. If any member of the industry is also engaged in any other industry or trade, the provisions of this Code shall apply

to and affect only that part of the business of such member of the industry which is included in the alcoholic beverage wholesale industry.

ARTICLE XVII—EFFECTIVE TIME

SECTION 1. This Code shall become effective on the day following its approval by the President.

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